

REMARKS

Claims 1, 2, 4, 5, 7-10, 12-15, 17-20, 22-32, 34, 36-39, 41-44, 46-49, and 50-53 are now pending in the application. Claims 3, 6, 11, 16, 21, 33, 35, 40, 45, and 50 have been cancelled. Claims 54-57 have been added as new. Minor amendments have been made to the claims to simply overcome the rejections of the claims under 35 U.S.C. § 112. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 1-53 stand rejected under 35 U.S.C. § 112, first paragraph, because the Examiner asserts that the best mode contemplated by the inventor has not been disclosed. This rejection is respectfully traversed.

Claims 1-53 stand rejected under 35 U.S.C. § 112, first paragraph, because the Examiner asserts that the specification, while being enabling for protrusions that are contacting the housing in relation to the sleeve, does not reasonably provide enablement for protrusion that are displaceable with respect to the housing and the sleeve. This rejection is respectfully traversed.

Claims 1-53 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

Applicant has amended claims 1 and 26 to remove the language indicating that the protrusion is displaceable. Therefore, reconsideration and withdrawal of the above rejections of claims 1-53 under 35 U.S.C. §112 are respectfully requested.

NONSTATUTORY DOUBLE PATENTING

Claims 1-9, 20-30, 34-47 and 53 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-19 of U.S. Patent No. 6,186,507.

Claims 10-19 and 48-52 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-19 of U.S. Patent No. 6,186,507 in view of Seeh et al. (U.S. Patent No. 5,096,207).

Claims 1-30 and 34-53 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-28 and 37-40 of U.S. Patent No. 6,406,026.

Applicant submits herewith Terminal Disclaimers for U.S. Patent Nos. 6,186,507 and 6,406,026 in compliance with 37 CFR 1.321(c). Accordingly, reconsideration and withdrawal of the double patenting rejections are respectfully requested.

REJECTION UNDER 35 U.S.C. §§ 102 AND 103

Claims 1-19, 22-23 and 25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kanda (U.S. Pat. No. 5,649,710, hereinafter "Kanda"). Claims 26-51 also appear to be rejected in view of Kanda, although not explicitly noted as such by the Examiner. This rejection is respectfully traversed.

Claims 19 and 52-53 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kanda in view of Sekulch (U.S. Pat. No. 3,572,732, hereinafter "Sekulch"). This rejection is respectfully traversed.

At the outset, Applicant notes that claims 1 and 26 include “a first elastomeric protrusion extending generally between the radially extending sleeve portion and the faceplate portion and including a base and an end generally opposite the base and oriented generally radially towards the longitudinal axis of the shaft”. The Examiner has indicated that element (70) of Kanda teaches the above quoted features. However, Applicant notes that element (70) of Kanda does not appear to extend “between the radially extending sleeve portion and the faceplate portion.” Element (70) of Kanda also does not include a base and an end opposite the base which is “oriented generally radially towards the longitudinal axis of the shaft.” The element (70) of Kanda extends axially and not radially towards the longitudinal axis of the shaft. Additionally, the disclosure fails to disclose any suggestion or motivation for this configuration. As such, Applicant notes that claims 1 and 26 are in condition for allowance.

Applicant notes that claims 2, 4, 5, 7-10, 12-15, 17-20, 22-25, 27-32, 34, 36-39, 41-44, 46-49, and 51-53 depend from claims 1 and 26 and are in condition for allowance for the reasons set forth above. Therefore, reconsideration and withdrawal of the rejection of claims 1, 2, 4, 5, 7-10, 12-15, 17-20, 22-32, 34, 36-39, 41-44, 46-49, and 51-53 are respectfully requested.

Applicant further notes that the combination of Kanda and Sekulch is improper. Specifically, the Examiner has used Sekulch to introduce a garter spring that is not present in Kanda. However, Kanda specifically states “[c]ontrary to conventional practice, no garter spring is employed to urge the primary sealing lip 74 into sealing contact with the wear surface 30.” (col. 3, lines 63-65). As such, there does not appear to be any motivation to include the garter spring of Sekulch with the seal of Kanda.

Further, Kanda actually appears to teach away from the use of a garter spring. It is established that where references, instead of suggesting the invention, seek or warn to avoid the suggestion, such references diverge from and teach away from the invention at hand and it is error to find obviousness based on such references. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1599 (Fed. Cir. 1988) (citing W.L. Gore & Assocs. v. Garlock, Inc., 721 F.2d 1540, 1550, 220 USPQ2d 303, 311 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984)). As such, Applicant respectfully submits that claims 19 and 52-53 are in condition for allowance due to this improper combination, as well as for the reasons set forth above regarding claims 1 and 26.

NEW CLAIMS

Applicant notes that claims 54-57 have been added as new. Claim 54 depends from claim 1 and claim 56 depends from claim 26. Claims 55 and 57 depend from claims 54 and 56, respectively. As such, these claims should be in condition for allowance for the reasons set forth above. Applicant further notes that claims 54 and 56 include the “first elastomeric protrusion end extending between said radially extending sleeve and said axially inner surface of said faceplate.” However, element (70) of Kanda does not extend between the radially extending sleeve and an axially inner surface of the faceplate. Claims 55 and 57 further include that the “first elastomeric protrusion end contacts said axially inner surface of said faceplate.” Again, element (70) of Kanda does not contact the faceplate. Therefore, Applicant submits that claims 54-57 are in condition for allowance for these features as well as those noted above regarding claims 1 and 26.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (734) 354-5445.

Respectfully submitted,

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